IN THE

Supreme Court of the United States

OCTOBER TERM, 1926.

No. 686

WILLIAM A. RHEA, PETITIONER,

vs.

THOMAS C. SMITH, RESPONDENT.

RESPONDENT'S BRIEF

STATEMENT OF CASE.

This case, Rhea v. Smith, 272 S. W. 946, 308 Mo. 422, involves the question of the rights of the Petitioner as purchaser of certain real estate sold under execution, issued from the U. S. District Court of the Southwestern Division of the Western District of Missouri, wherein Petitioner had obtained judgment against one Whitlock and others and under which execution he sold and bought (R. 14) said real estate of said Whitlock and his wife, but had failed to file a transcript of his judgment in the office of the Clerk of the Circuit Court of Jasper County, Missouri, wherein said real estate is situate, as provided by the Missouri Statutes, and a subsequent purchaser of said lands, without notice (R. 10). Two judgments, one in the Federal Court and one

in the State Court of Missouri, rendered and entered contemporaneously are not involved. Before we have any hypothesis upon which to build an adjudication on this latter question it is essential that we assume that there may, sometime in the future, arise a case in which a judgment of the Federal Court of the Southwestern Division of the Western District of Missouri, or of some other Federal Court in this State, will render and enter a judgment on the same day a judgment is rendered and entered in the Circuit Court of Jasper County, Missouri, or some other court similarly situated, a transcript of the former not being filed in the office of the Clerk of the Circuit Court of said County on that day.

The Act of Congress, relative to Federal Court liens, when enacted in 1888 (25 Stat. L. 357), reads as follows:

> Sec. 1. (LIEN OF JUDGMENTS OF UNITED STATES COURTS—WHEN TO BE RECORDED UNDER STATE LAWS.) That judgments and decrees rendered in a circuit or district court of the United States within any State, shall be liens on property throughout such State in the same manner and to the same extent and under the same conditions only as if such judgments and decrees had been rendered by a court of general jurisdiction of such State: *Provided,* That whenever the laws of any State require a judgment or decree of a State Court to be registered, recorded, docketed, indexed, or any other thing to be done, in a particular manner, or in a certain office or county, or parish in the State of Louisiana before a lien shall attach, this act shall be applicable therein whenever and only whenever the laws of such State shall authorize the judgments and decrees of the United States courts to be registered, recorded, docketed, indexed, or otherwise conformed to the rules and requirements relating to the judgments and decrees of the courts of the State.

Sec. 2. (INDEXES OF JUDGMENT RECORDS TO BE KEPT BY CLERKS OF COURTS.) That the clerks of the several courts of the United States shall prepare and keep in their respective offices complete and convenient indices and cross-indices of the judgment records of said courts, and such indices and records shall at all times be open to the inspection and examination of the public.

Sec. 3. Nothing herein shall be construed to require the docketing of a judgment or decree of a United States Court, or the filing of a transcript thereof, in any State office within the same county or parish in the State of Louisiana in which the judgment or decree is rendered, in order that such judgment or decree may be a lien on any property within such county.

In 1895 (28 Stat. L. 814) said section three was amended to read as follows:

Sec. 3. (DOCKETING IN STATE COURT, WHEN NOT REQUIRED.) That nothing herein shall be construed to require the docketing of a judgment or decree of a United States court, or the filing of a transcript thereof, in any State office within the same county or the same parish in the State of Louisiana in which the judgment or decree is rendered, in order that such judgment or decree may be a lien on any property within such county, if the clerk of the United States court be required by law to have a permanent office and a judgment record open at all times for public inspection in such county or parish.

Section 3 of said Act, as amended, was repealed to take effect January 1, 1913 (37 Stat. L. 311).

In 1911 (Judicial Code, Section 91) Congress created the Southwestern Division of the Western District of Missouri, and provided for the holding of court at Joplin where

the Clerk should maintain an office in charge of himself or a deputy, to be kept open at all times for the transaction of the business of the court.

The Revised Statutes of the United States, Sections 562, 621, 622, 623, 624, 27 Stat. L. 13, 30 Stat. L. 836, 31 Stat. L. 249, 30 Stat. L. 1002, contained provisions for offices and records to be kept in various and distinct localities, many or all of which existed during the period when Congress enacted, amended and repealed said Section 3.

The Judicial Code, Sections 71, et seq., provides for more than one county in various districts for holding court and keeping records.

At the time of the litigation involved herein there was in full force and effect, as shown by the Revised Statutes of Missouri of 1919, Vol. 1, the following provisions:

> Sec. 1554. LIEN OF JUDGMENT IN SUPREME COURT, COURTS OF APPEALS AND FEDERAL COURTS IN THIS STATE. —Judgments and decrees obtained in the Supreme Court, in the United States district or circuit court held within this state, in the Kansas City court of appeals or the St. Louis court of appeals, shall, upon the filing of a transcript thereof in the office of the clerk of any circuit court, be a lien on the real estate of the person against whom such judgment or decree is rendered, situate in the county in which such transcript is filed.
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> Sec. 1555. LIEN IN COURTS OF RECORD, GENERALLY. —Judgments and decrees rendered by any court of record shall be a lien on the real estate of the person against whom they are rendered, situate in the county for which the court is held.
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> Sec. 1556. THE COMMENCEMENT, EXTENT AND DURATION OF LIEN.—The lien of a judgment or decree shall extend as well to the real estate acquired after the

rendition thereof as to that which was owned when the judgment or decree was rendered. Such liens shall commence on the day of the rendition of the judgment, and shall continue for three years, subject to be revived as hereinafter provided; but when two or more judgments or decrees are rendered at the same term, as between the parties entitled to such judgments or decrees, the lien shall commence on the last day of the term at which they are rendered.

Sec. 1580. CLERKS SHALL KEEP BOOK FOR DOCKETING JUDGMENTS.—The clerks of courts of record shall keep in their respective offices a well-bound book for entering therein an alphabetical docket of all judgments and decrees.

Sec. 1581. DOCKET SHALL CONTAIN WHAT ENTRIES.—They shall, during every term, or within thirty days thereafter, enter in such docket all final judgments and decrees rendered at such term in alphabetical order, by the name of the person against whom the judgment or decree was entered; and if the judgment or decree be against several persons, it shall be docketed in the name of each person against whom it was recovered, in the alphabetical order of their names, respectively.

Sec. 1582. FURTHER ENTRIES TO BE MADE IN DOCKET.—Such docket shall contain, in columns ruled for that purpose: First, the names of the parties; second, the date; third, the nature of the judgment or decree; fourth, the amount of the debt, damages and costs; fifth, the book and page in which it is entered; sixth, a column for entering a note of the satisfaction or other disposition thereof.

Sec. 1583. JUDGMENTS OF SUPREME COURT, ETC.—Transcripts of judgments or decrees of the Supreme

Court or either court of appeals or of any United States Court shall, as soon as they are filed in the office of the clerk of the circuit court or other inferior court, be entered in the said docket.

Sec. 1593. TRANSCRIPT OF JUDGMENT A LIEN IN ANOTHER COUNTY, WHEN.—Judgments and decrees obtained in any court of record in this state shall, upon the filing of a transcript thereof in the office of the clerk of the circuit court of any other county, be a lien upon the real estate of the person against whom such judgment or decree is rendered, situate in the county in which such transcript is filed.

Sec. 2122. CLERK TO KEEP RECORD, ETC.—WHEN CLERK AN INTERESTED PARTY PROCESS TO BE ISSUED BY COUNTY CLERK.—Every clerk shall record the judgments, rules, orders and other proceedings of the court, and make a complete alphabetical index thereto; * * *."

Sections 1554 and 1583, *supra,* were first enacted in 1889 (Sections 6010 and 6039, R. S. 1889).

The Appellate Courts of Missouri have jurisdiction to "examine the record and award a new trial, reverse or affirm the judgment or decision of the Circuit Court, or give such judgment as such court ought to have given, as to them shall seem agreeable to law."

Sec. 1514, R. S. Mo., 1919;
State ex. rel. vs. Walbridge, 153 Mo., 194, 204.

Article VI of the constitution of the State of Missouri (pp. 116, 117, R. S. 1919) is as follows:

Sec. 1. JUDICIAL POWER, WHERE VESTED.—The judicial power of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, the St.

Louis Court of Appeals, circuit courts, criminal courts, probate courts, county courts and municipal corporation courts.

Sec. 2. SUPREME COURT, JURISDICTION OF.—The Supreme Court, except in cases otherwise directed by this Constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this Constitution provided.

Sec. 3. SUPREME COURT, SUPERINTENDING CONTROL OF—POWER TO ISSUE ORIGINAL WRITS.—The Supreme Court shall have a general superintending control over all inferior courts. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari and other original remedial writs, and to hear and determine the same.

Amendment of 1884 (p. 133, R. S. 1919), is as follows:

Sec. 1. ST. LOUIS COURT OF APPEALS, EXTENDED JURISDICTION—JUDGES.—The jurisdiction of the St. Louis Court of Appeals is hereby extended so as to be coextensive with 55 Counties and the City of St. Louis named.

Sec. 2. KANSAS CITY COURT OF APPEALS, JURISDICTION, TERMS, JUDGES.—There is hereby established at Kansas City an appellate court, to be known as the Kansas City Court of Appeals, the jurisdiction of which shall be coextensive with all counties in the State except those embraced in the jurisdiction of the St. Louis Court of Appeals. * * *

In 1901 the Legislature of Missouri (Session Laws 1901, p. 120) created two divisions of the Circuit Court of Jasper County, composing the 25th judicial circuit, and established a circuit court at Joplin, requiring the Clerk to

keep separate books and records thereof and an office at that place, where three terms of court are held (R. S. 1919, Sec. 2524). Carthage was then, and is yet, the County Seat.

The State of Missouri has 114 counties, divided into numerous judicial circuits and each circuit, except five, contains more than one county.

Missouri R. S., 1919, Secs. 2461-2498;
Laws of Missouri, 1921, pp. 243-246;
First Extra Session, 1921, pp. 50-53.

In each of the circuits containing only one county, the 6th judicial circuit composed of Buchanan County, in which St. Joseph is located; the 16th consisting of Jackson County, in which Kansas City is located; the 23rd consisting of Green County, in which Springfield is located, and the 25th consisting of the County of Jasper, in which Joplin is located, have terms of the Federal Court, at each of which places the Clerk of the United States Court is required to keep his office open at all times for the transaction of the business of the Court. The 8th judicial circuit in the Eastern Federal District consists of the city of St. Louis and the Federal Court is held and the clerk keeps an office there (Section 91, Judicial Code).

ARGUMENT.

What is stated herein is intended to be corrobatory of and supplementary to the majority opinion of the Supreme Court of Missouri. The petitioner contends that the portion of Section 1 of the Act of Congress of 1888 preceding the proviso, should be supplemented by Section 1555 of the Missouri Statute and respondent insists that the proviso applies, when properly construed, as supplemented by Section 1554 and 1583 of the Missouri Statutes, which, when followed, effects the necessary conformity and establishes a practical method of creating Federal Court judgment liens applicable to this case.

It is, and will forever be, an impossibility to work out the application of any law, State or Federal, or State and Federal, that will give all judgment creditors liens of contemporaneous inception equal opportunities. No law can be devised on that subject that will effect conformity to a mathematical nicety. Judgment liens must of necessity be applied to courts in different localities, to the same court, to courts of different jurisdictions, and to many other situations and conditions too numerous to enumerate.

That judgment liens have ever been a subject for consideration in England and in this Country is apparent from 34 C. J. 567, §870, et seq.

> "The process act of 1789 (ch. 21) expressly adopted the forms of writs and modes of process of the State Courts, in suits at common law."
>
> Beers vs. Houghton, 9 Pet. 329, 359.

Thus early in the history of this Country disclosing a purpose on the part of Congress to digress as little as possible from the practice prevailing in the State Courts.

Section 914 of the United States Revised Statutes, taken from the Act of Congress of June 1, 1872 (17 Stat. L. 196) providing that the practice in the Federal Courts should conform to the State practice in the Civil cases (Indianapolis and St. Louis R. Company vs. Horst 93 U. S. 291, 300, 3 Otto), discloses a purpose upon the part of Congress to effect a conformity between National and State courts. In that case it is said that the conformity thus effected was "intended to relieve the legal profession from the burden of studying and practicing under two distinct and different systems of the law of procedure in the same locality, one obtaining in the courts of the United States, the other in courts of the State". The same purpose prompted Section 916, U. S. Revised Statutes, concerning conformity of Federal and State Court judgments and executions and many other similar Acts of Congress that will occur to the reader. Congress thus having manifested a disposition to aid those learned in the legal profession, in order to more effectively avoid confusion, we are impressed with the response to a demand for similar consideration in matters affecting those unlearned in the law, judgment lien creditors and others seeking information concerning titles to real estate.

Judge Caldwell, in the case of Dartmouth Savings Bank vs. Bates, 44 Fed. 546, 549, suggests the idea which must prevail in the construction of legislation by Congress on this subject, and which must govern in the construction of any legislation involving judgment liens of courts in all jurisdictions. The object was, as there held, to place in the Court House, where people naturally and usually go to seek information concerning judgment liens, the necessary facts. The Court House, and the records therein are, in Missouri, the places to which, and only to which, the people are naturally inclined to turn for such information. On page 20 of Petitioner's brief we find this statement:

> "There is not any one place or any one office in Jasper County, Missouri where all the judgments of the State Courts of record which are liens on real estate in the County may be found."

Petitioner is wrong in his conclusion and statement for the reason that in Jasper County, Missouri, and all other Counties within the State, there is but one place, and that is the county court house, wherein a judgment of any kind or character which are liens on real estate within such County, must be recorded, and there only can they be found.

The case of Shrew vs. Jones, 2 McLean 78, 22 Fed. Cas. 40, No. 12,818), decided in 1840, discussing the territorial jurisdiction of State and Federal Courts, closes as follows:

> "If it shall be deemed important to have the records of the judgments of this court recorded in the County where the lands of the defendant are situated it may be required by Acts of Congress, or by rule of this Court, if the law of the State shall require the clerks to make such record".

Preliminary to a more particular discussion of the Act of Congress of 1888, attention is directed to the following:

> "In the construction of any statute, the history and reason of its enactment may always be invoked in its construction." (State vs. Balch, 178 Mo., 392, 409), as well as its "reason and spirit."
>
> Virtebo vs. Friedlander, 120 U. S., 707, 726.

In the same connection we also quote:

> "The intention of the law maker constitutes the law; a thing may be within the letter of the statute and not within its meaning; and within its meaning though not within its terms."

Indianapolis & St. Louis R. Co. vs. Horst, 93 U. S., 291, 300, 3 Otto;
Brown vs. Duchesne, 19 How. 183, 197.

Congress evidently being impelled by a desire to provide further and more effective means of information to the people interested in Federal Court judgments than then existed adopted the Act of Congress of 1888, containing the three Sections, the latter dispensing with the docketing or filing of a transcript of a judgment of the Federal Court in the County wherein such judgment was rendered. Seven years later that section was amended and required such judgments or transcripts to be filed in the County where rendered, only in cases in which the Clerk of the Federal Court did not keep a permanent office and a judgment record open at all times for public inspection in such County. Seven years thereafter Section 3, as amended, was repealed.

In considering the above Act of Congress we quote the following rule:

> "But it is a familiar canon of interpretation, that all former statutes on the same subject, whether repealed or unrepealed, may be considered in construing the provisions that remain in force".

Virtebo vs. Friedlander, 120 U. S. 707, 725, & 726.

In the interpretation of statutes, provisions which have been repealed may yet be considered in construing the provisions that remain in force.

Ex Parte: In the matter of Kang-Gi-Shun-Ga., 109 U. S., 556, 561;
Board of Education vs. Boehm, 102 O. St. 292. (131 N. E. 812, 815);
Searcy vs. State, 167 Pac. 476,478.

It is not improbable that Congress, in dealing with Federal Court judgments and with State Court judgments that

are usually confined to smaller territorial limits, was confronted by the general rule that a judgment ordinarily "creates a lien to the extent of its jurisdiction", (Massingill v. Downs, 7 How. 761, 766; Bayard v. Lombard, 9 How. 530, 539, 540 and Cook v. Avery, 147 U. S. 375, 389 and 390.), and that, therefore, Congress intended that whenever the Federal Court judgment liens was provided for by the state statutes its application should be general for the entire jurisdictional territory and not to be confined to any particular county.

Such theory would be entirely obnoxious to the contention advanced by petitioner that the first part of Section 1 of the Act of 1888, preceding a proviso, should be treated as supplemented by Section 1555 of the Missouri Statute and thus create a lien of the Federal Court judgment solely for the county in which the judgment was rendered.

In considering Federal Court judgments and undertaking to have said Section 1555 of the Missouri Statute supplement the first portion of said Section 1, we have suggested to us, by the case of Bayard v. Lombard, 9 How. 530, 540 and what is there said with reference to statutes similar to said Section 1555 of the Missouri Statute, that "The term 'county' used in this connection would be deemed merely a word used to designate the known limits of a given jurisdiction". The elimination of such incongruities was evidently one of the purposes that prompted the final repeal of said Section 3 of the Federal Statutes.

If the construction contended for by petitioner that the portion of Section 1 of the Act of 1888, preceding the proviso, is erroneous, the respondent yet recognizes that it is necessary to find and hold that the proviso is sufficiently supplemented by Sections 1554 and 1583 of the Missouri Statute as to create a workable scheme for the perfecting of Federal Court judgment liens.

The definition, "a court of general jurisdiction", as used in the first part of Section 1 of the Act of Congress of 1888, may be applied to the appellate courts of Missouri, under the constitutional provisions above quoted, and besides, the constitution of Missouri, quoted at page 13 of petitioner's brief, defines circuit courts as courts of exclusive, "original jurisdiction".

When we undertake to classify the circuit courts of Missouri as the only courts of general jurisdiction, contended by petitioner to be a supplement of the first portion of Section 1 of the Act of Congress of 1888, we do violence to the rules of statutory construction, because the appellate court, where final judgment may be entered, (R. S. Mo., 1919, Sec. 1415), have jurisdiction not only in all the cases over which the circuit court presides, but applies to a multitude of other and additional cases, as shown by the constitutional provisions concerning appellate courts (pp. 116, 117 and 133, Vol. 1, R. S. Mo.), that cannot be affected by the jurisdiction of the circuit courts.

The proviso contained in Section 1 of said Act of Congress of 1888 makes no reference to courts of general jurisdiction, but refers to judgments of a "State Court".

In considering said Section 1 with reference to the last above referred to Missouri Constitutional provisions and Sections 1554 and 1583 of the Missouri Statutes, it is a just construction to say that the judgments of the appellate courts are classified with the judgments of the Federal Courts, and that if there is any distinction to be made of the first provision of said Section 1 of the Act of Congress of 1888, preceding the proviso, then the proviso of that section is sufficiently flexible to permit of two classifications, one, applicable to the courts of original jurisdiction and the other to the higher courts of general jurisdiction of the state, and as to the latter courts, the provisions of said Sections 1554 and 1583 are uniform. We are not in this

contention unmindful that violence must not be done to the conformity of inferior court liens.

We contend that conformity is more nearly effected upon our construction than upon the construction by the petitioner. If we say that a lien of a judgment entered in the Federal Court at Joplin takes effect the day it is rendered, then we have destroyed conformity in the judgments of the Federal Court, because if in the same case a judgment is rendered against a defendant who owned real estate in Jasper County and also against another defendant who owned real estate in a different county in the same division of the Federal Court the latter judgment creditor would be placed at a disadvantage, who, according to the theory advanced by petitioner, would have to transcript his judgment to the other county. Neither can exact conformity be effected in Missouri as to the State Circuit Courts, under the existing law, or any law that can be devised, because the same condition and difficulty exists as to any judgment rendered in the circuit court of any county of the State.

Another noticeable defect in the contention of petitioner and the illustrations used in his behalf is that it would be refuted by endless other imaginary conditions that might arise. See illustrations in majority opinion of the Supreme Court of Missouri (R. 23).

The comparison of what must be done in complying with Sections 1554 and 1583 of the Missouri Statutes and what is required of a judgment creditor in the state circuit court under Section 1555 of the Missouri Statute suggests that the holder of a Federal Court judgment may have more than one day in which to perfect his lien by complying with said Sections 1554 and 1583. While under said Section 1556 the judgment lien commences on the day of the rendition, there are exceptions to the general rule. There may be two judgments rendered at the same term,

and Section 1453 of the Missouri Revised Statutes of 1919 provides that a new trial may be granted and Section 1456 allows four days therefor. The proper practice in all cases is "merely to enter the verdict of the jury and suspend the entry of the judgment until the expiration of the time within which an application for a new trial can be made" (Lane v. Kingsbury, 11 Mo. 402, 407 & 408; St. Louis D. & S. Loan Ass'n. v. Augustin, 2 Mo. App. 123, 132; Scott v. Scott, 44 Mo. App. 600, 602 & 603; Costello v. Kansas City, 209 Mo. App. 155, 161). However, a different practice appears to have sprung up in Missouri, as a matter of expediency, but that does not necessarily determine the questions of priorities (Cramer v. Barmon, 193 Mo. 327, 329).

It is also necessary in this connection to notice that if a Federal Court judgment transcript is filed in the office of the Clerk of said Circuit Court and on the same day judgment is rendered in that court, then it should be held that the two judgments were rendered at the same term, and governed by said Section 1556 of the Missouri Statutes, so that the liens of the two judgments would "commence on the last day of the term". This point was raised but not decided in the case of Bradley v. Heffernan, 156 Mo. 653, 662.

In discussing the above situation, and numerous others that might be imagined, and in considering the questions raised here, it should not be overlooked that often "for the purpose of justice" the doctrine of relation must be considered (Gibson v. Chouteau, 13 Wall 92, 100 and 101, and Newhall v. Sanger, 2 Otto, 761, 766), while if authority therefore is necessary to the effect that where two liens are created on the same day each has the same rights, we cite Rockhill v. Hanna, 15 How. 189, 195, except that the one upon which execution is first levied has priority. Shir-

ley v. Brown, 80 Mo. 244 and Bruce v. Vogel, 30 Mo. 100, 103 & 104.

Although it is impossible to find or imagine a situation in which complete conformity may be accomplished and even if we concede, which we do not, that the statutes providing for judgment liens should be strictly construed, we are enlightened by the following observations:

> "Strict construction is not a substitute for all other rules. It does not mean that whenever a controversy is or can be raised of the meaning of a statute, ambiguity occurs, which immediately and inevitably determines the interpretation of the statute. The decisive simplicity of such effect is very striking. It conveniently removes all difficulties from judgment in many cases of controverted construction of laws. But we cannot concede such effect to the rule, nor is such effect necessary in order to make the rule useful and, at times, decisive. Its proper office is to help to solve ambiguities, not to compel an immediate surrender to them,—to be an element in decision, and effective, maybe, when all other tests of meaning have been employed which experience has afforded, and which it is the duty of courts to consider when rights are claimed under a statute. Will courts ever be exempt, or have they ever been exempt, from that duty? Has skill in the use of language ever been so universal, or will it ever be so universal, as to make indubitably clear the meaning of legislation? Has forecast of events ever been so sure, or will it ever be so sure, as to make inevitably certain all the objects contemplated by a statute? We think not, and there never will be a time in which judicial interpretation of laws will not be invoked, and it cannot be omitted because a doubt may be asserted concerning the meaning of the legislators.

We repeat, it is the judicial duty to ascertain if doubt exists."

Citizens' Bank of Louisiana vs. Parker, 192 U. S. 73, 85 & 86.

On the question of conformity we submit that the reading of Sections 1554 and 1583 of the Missouri statute in connection with the Act of Congress of 1888 a situation is created that more nearly meets the intention of Congress, and the underlying purpose thereof from the very inception of this question than could be created in any other manner. It is absolutely impossible, as between two jurisdictions, either State or Federal, to create literal conformity, and this is true not alone between courts of different jurisdiction, but courts of the same jurisdiction but in different localities. Reasonable conformity is what the law requires and that an unnecessary burden be not placed upon judgment creditors. Neither the Missouri Legislature nor Congress legislated with the idea in mind of protecting a particular class judgment creditors, but the primary and fundamental purpose of the legislation is for the protection of the people in the conveyance of their property.

When Congress legislated in reference to the Federal District or Circuit Courts it thereby provided the manner and the means by which a Federal District or Circuit Court judgment became a lien in connection with the action of the different State Legislatures, yielding certain authority to the State Legislatures, and to say the purpose of legislation shall be defeated because of the impossibility to make each judgment lien come into existence at the identical minute, as is suggested on page 21 of Petitioner's brief and argument, would make it impossible for any legislative body to create a condition whereby there would be conformity in any sense.

Appellant in this case, throughout his argument abandons the reasonable interpretation of the Statute as supplemented by the State Legislation and enters the field of imagination wherein he develops different situations that might arise thereby creating ambiguities instead of undertaking to solve the intent of the Congress and the State Legislature. By his imaginary situations he undertakes to compel a surrender to such ambiguities. His contemplated future controversies are forecasts of situations that may arise which would entirely destroy both the Act of Congress and the different Acts of the Missouri Legislature. This course of reasoning is not only condemned, but absolutely repudiated as a rule of judicial interpretation in the case of Citizens' State Bank of Louisiana vs. Parker, 192 U. S. 73, 85, 86, *supra.*

The respondent respectfully prays that the judgment of the Supreme Court of Missouri be affirmed.

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